

be filed by the plaintiff to foreclose the said mortgage; or on any bill that may be filed by the defendants to redeem the said property. And it is further *Decreed*, that as to the defendant *Richard H. Clagett*, the injunction heretofore granted is hereby dissolved; and that the bill of complaint be and the same is hereby dismissed with his costs to be taxed by the register. And it is further *Decreed*, the defendants, other than the said *Richard H. Clagett*, pay all the costs of this suit, not heretofore ordered to be paid by the plaintiff, to be taxed by the register.

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From this decree the defendants appealed, and it was affirmed.  
5 G. & J. 314.

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#### WAMPLER v. SHIPLEY.

A trustee appointed to sell property cannot be allowed to abandon any right arising out of the sale after it has been ratified; or to dispose of the purchase money in any way without the previous sanction of the court.

THIS was a creditor's bill filed on the 14th of October, 1813; upon which on the 25th of April, 1816, a decree was passed directing a sale of the real estate of *Duncan Shipley*, deceased, to pay his debts. The trustee reported several sales which were ratified. And by a further report, filed on the 21st instant, and now submitted for the order of the Chancellor, the trustee states, that as a part of the real estate of the late *Duncan Shipley*, he had heretofore sold a small piece of land supposed to contain ten acres, for three dollars and a quarter an acre, amounting to \$33 31 $\frac{1}{4}$ , to *Seth Warfield*, who gave his single bill with two sureties for the payment of the purchase money; that the sale had been ratified; and after the purchase money became due, he had sued *Warfield* and his sureties for the debt, by warrant before a justice of the peace; who upon hearing the case was satisfied, as this trustee was informed and believes, that there was either no land at all included in the certificate of sale given by said trustee, or at most not more than three or four acres to which there was any title or claim in said trustee; and, therefore, there was, in his opinion, a total failure of consideration, and he gave judgment of *non pros* against this trustee, with costs; which this trustee paid, amounting to one dollar. Whereupon the trustee prayed to be allowed the costs so paid to him; that the sale be rescinded, &c.,